

Executive Summary – Enforcement Matter – Case No. 41355
FALL CREEK UTILITY COMPANY, INC.
RN101609766
Docket No. 2013-1028-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Fall Creek Utility WWTP, located at 7001 Ranch House Road, approximately 7,000 feet west of the intersection of Farm-to-Market Road 1190 and County Road 303, Hood County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 19, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,200

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$9,600

Total Paid to General Revenue: \$100

Total Due to General Revenue: \$3,500

Payment Plan: 35 payments of \$100 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 41355
FALL CREEK UTILITY COMPANY, INC.
RN101609766
Docket No. 2013-1028-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 23, 2013

Date(s) of NOE(s): May 10, 2013

Violation Information

1. Failed to maintain complete management records for all sludge removed from any wastewater treatment process [30 TEX. ADMIN. CODE § 305.125(1) and 305.125(11)(B) and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013809001, Operational Requirements No. 11.f.].
2. Failed to comply with permitted effluent limits for total suspended solids, dissolved oxygen, and residual chlorine [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0013809001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6, and TCEQ Agreed Order Docket No. 2011-0525-MWD-E, Ordering Provision No. 2.b.].
3. Failed to properly maintain the staff gauge [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013809001, Operational Requirements No. 1].
4. Failed to comply with the previous Agreed Order [TEX. WATER CODE § 7.002 and TCEQ Agreed Order Docket No. 2011-0525-MWD-E, Ordering Provision No. 2.a.i.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 15 days, properly install a new staff gauge.
- b. Within 30 days:
 - i. Submit certification of compliance with Ordering Provision a.; and

Executive Summary – Enforcement Matter – Case No. 41355

FALL CREEK UTILITY COMPANY, INC.

RN101609766

Docket No. 2013-1028-MWD-E

ii. Update the Facility's operational guidance and conduct employee training to ensure that all records of monitoring and operational activities, which include sludge management records and/or disposal records, are kept on site for a period of three years; and to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports.

c. Within 45 days, submit certification of compliance with Ordering Provision b.ii.

d. Within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013809001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division, Enforcement Team 1, MC R-04, (817) 588-5825; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Joe Cunha, President, FALL CREEK UTILITY COMPANY, INC., 7001 Deer Hollow Court, Grandbury, Texas 76049

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	13-May-2013	Screening	24-May-2013	EPA Due	
	PCW	8-Oct-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	FALL CREEK UTILITY COMPANY, INC.				
Reg. Ent. Ref. No.	RN101609766				
Facility/Site Region	4-Dallas/Fort Worth			Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41355	No. of Violations	4
Docket No.	2013-1028-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	20.0%	Enhancement	Subtotals 2, 3, & 7	\$2,200
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Notes: Enhancement for one order with denial of liability.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1,005
Approx. Cost of Compliance \$5,400

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,200
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$13,200
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,200
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$13,200
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Screening Date 24-May-2013

Docket No. 2013-1028-MWD-E

PCW

Respondent FALL CREEK UTILITY COMPANY, INC.

Policy Revision 3 (September 2011)

Case ID No. 41355

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609766

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 24-May-2013

Docket No. 2013-1028-MWD-E

PCW

Respondent FALL CREEK UTILITY COMPANY, INC.

Policy Revision 3 (September 2011)

Case ID No. 41355

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609766

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and 305.125(11)(B) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013809001, Operational Requirements No. 11.f

Violation Description Failed to maintain complete management records for all sludge removed from any wastewater treatment process, as documented during an investigation conducted on January 23, 2013. Specifically, the location of the disposal site was not documented on the manifest.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

121 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$45

Violation Final Penalty Total \$300

This violation Final Assessed Penalty (adjusted for limits) \$300

Economic Benefit Worksheet

Respondent FALL CREEK UTILITY COMPANY, INC.
Case ID No. 41355
Reg. Ent. Reference No. RN101609766
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	3-Nov-2011	31-May-2015	3.58	\$45	n/a	\$45
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all records of monitoring and operational activities, which include sludge management records and/or disposal records, are kept on site for a period of three years; and to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports, in accordance with TPDES Permit No. WQ0013809001, Sludge Provisions. Date required is the effective date of the Agreed Order. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$45

Screening Date 24-May-2013

Docket No. 2013-1028-MWD-E

PCW

Respondent FALL CREEK UTILITY COMPANY, INC.

Policy Revision 3 (September 2011)

Case ID No. 41355

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609766

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0013809001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6, and TCEQ Agreed Order Docket No. 2011-0525-MWD-E, Ordering Provision No. 2.b

Violation Description

Failed to comply with permitted effluent limits, as documented during an investigation conducted on January 23, 2013. See attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 7

568 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	Semiannual	
	annual	
	single event	

Violation Base Penalty \$8,750

Seven quarterly events are recommended from the Order effective date (November 3, 2011) to the screening date (May 24, 2013).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$8,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$936

Violation Final Penalty Total \$10,500

This violation Final Assessed Penalty (adjusted for limits) \$10,500

Economic Benefit Worksheet

Respondent FALL CREEK UTILITY COMPANY, INC.
Case ID No. 41355
Reg. Ent. Reference No. RN101609766
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	3-Nov-2011	31-Jul-2015	3.74	\$936	n/a	\$936

Notes for DELAYED costs

Estimated cost to determine the cause of non-compliance and to make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the effective date of the Agreed Order. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$936

Screening Date 24-May-2013

Docket No. 2013-1028-MWD-E

PCW

Respondent FALL CREEK UTILITY COMPANY, INC.

Policy Revision 3 (September 2011)

Case ID No. 41355

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609766

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0013809001, Operational Requirements No. 1

Violation Description

Failed to properly maintain the staff gauge, as documented during the investigation conducted on January 23, 2013. Specifically, the staff gauge was corroded, not clearly legible, and installed in the wrong location.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1

121 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

Economic Benefit Worksheet

Respondent FALL CREEK UTILITY COMPANY, INC.
Case ID No. 41355
Reg. Ent. Reference No. RN101609766
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$150	23-Jan-2013	31-May-2015	2.35	\$1	\$24	\$25
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly install a new staff gauge. Date required is the date of the investigation. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$25

Screening Date 24-May-2013

Docket No. 2013-1028-MWD-E

PCW

Respondent FALL CREEK UTILITY COMPANY, INC.

Policy Revision 3 (September 2011)

Case ID No. 41355

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101609766

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 4

Rule Cite(s)

Tex. Water Code § 7.002 and TCEQ Agreed Order Docket No. 2011-0525-MWD-E,
Ordering Provision No. 2.a.i

Violation Description

Failed to comply with previous agreed order, as documented during an investigation conducted on January 23, 2013. Specifically, the Facility's operational guidance was not updated and employee training was not conducted to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports, in accordance with TPDES Permit No. WQ0013809001, Sludge Provisions.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the Order requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

568 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

Economic Benefit Worksheet

Respondent FALL CREEK UTILITY COMPANY, INC.
Case ID No. 41355
Reg. Ent. Reference No. RN101609766
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Respondent: FALL CREEK UTILITY COMPANY, INC.
ID Number(s): TPDES Permit No. WQ0013809001
Docket Number: 2013-1028-MWD-E

Corresponds to Violation Number: 2

<i>EFFLUENT PARAMETER</i>				
Permit Limit				
	Chlorine Residual Minimum Concentration 1.0 Milligrams per Liter	Dissolved Oxygen Minimum Concentration 4.0 Milligrams per Liter	Total Suspended Solids Daily Average Concentration 20 Milligrams per Liter	Total Suspended Solids Daily Average Concentration Single Grab 65 Milligrams per Liter
<i>Month/Year</i>				
March 2012	c	2.9	c	c
April 2012	c	2.6	c	c
January 2013	**0.66	c	c	c

c = compliant

** Grab sample collected on January 23, 2013

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600694111, RN101609766, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600694111, FALL CREEK UTILITY COMPANY, INC. **Classification:** SATISFACTORY **Rating:** 11.33

Regulated Entity: RN101609766, FALL CREEK UTILITY WWTP **Classification:** SATISFACTORY **Rating:** 11.33

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 7001 RANCH HOUSE RD IN HOOD COUNTY, APPROXIMATELY 7,000 FEET WEST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 1190 AND COUNTY ROAD 303 GRANBURY, TX 76049 HOOD, TX, HOOD COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s): **WASTEWATER PERMIT** WQ0013809001 **WASTEWATER EPA ID** TX0127426

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: August 02, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 02, 2008 to August 02, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Heather Brister **Phone:** (254) 761-3034

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: **11/03/2011** ADMINORDER 2011-0525-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov:Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov:Sludge Reporting Requirements PERMIT
Description: Failure to submit sludge monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	August 10, 2008	(718609)
Item 2	September 05, 2008	(718610)
Item 3	November 03, 2008	(718612)
Item 4	February 05, 2009	(756956)
Item 5	May 08, 2009	(773786)
Item 6	June 03, 2009	(773787)
Item 7	July 20, 2009	(931492)
Item 8	August 09, 2009	(931493)
Item 9	September 08, 2009	(931494)
Item 10	October 06, 2009	(931495)
Item 11	November 06, 2009	(931496)
Item 12	December 11, 2009	(931497)
Item 13	January 07, 2010	(931498)
Item 14	March 09, 2010	(931489)
Item 15	April 08, 2010	(931490)
Item 16	May 03, 2010	(836915)
Item 17	July 06, 2010	(862564)
Item 18	August 02, 2010	(869180)
Item 19	September 07, 2010	(876061)
Item 20	October 06, 2010	(883647)
Item 21	November 11, 2010	(890008)
Item 22	April 05, 2011	(931491)
Item 23	May 12, 2011	(940160)
Item 24	July 12, 2011	(954805)
Item 25	August 05, 2011	(961389)
Item 26	September 08, 2011	(967514)
Item 27	October 13, 2011	(973447)
Item 28	December 09, 2011	(986425)
Item 29	January 07, 2012	(992803)
Item 30	February 10, 2012	(1000146)
Item 31	March 08, 2012	(1005638)
Item 32	June 11, 2012	(1026333)
Item 33	July 06, 2012	(1033658)
Item 34	September 11, 2012	(1049185)
Item 35	September 19, 2012	(1040191)
Item 36	October 01, 2012	(1028438)
Item 37	October 02, 2012	(1070680)
Item 38	November 09, 2012	(1070681)
Item 39	December 07, 2012	(1070682)
Item 40	January 09, 2013	(1083563)
Item 41	February 06, 2013	(1083562)
Item 42	March 07, 2013	(1091517)
Item 43	April 09, 2013	(1097860)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 8/2/2008 and 8/2/2013

- 1 Date: **09/30/2008** (718611) CN600694111
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 2 Date: **11/30/2008** (733840) CN600694111
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 3 Date: **12/31/2008** (733841) CN600694111
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 4 Date: **02/28/2009** (756957) CN600694111
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 5 Date: **03/31/2009** (756958) CN600694111
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 6 Date: **08/07/2009** (747931) CN600694111
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)
Description: Failure to install a RPZ backflow prevention device or air gap on the main potable water line to the WWTP.
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(11)(B)
WQ0013809-001 PERMIT
Description: Failure to provide sludge disposal records that include all necessary information.
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0013809-001 PERMIT
Description: Failure to provide a legible staff gauge.
Classification: Moderate

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)
 WQ0013809-001 PERMIT
 Description: Failure to submit the annual sludge reports by September 1 as required.
 Classification: Moderate

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 WQ0013809-001 PERMIT
 Description: Failure to comply with the self-monitoring permit limitations.
 Classification: Minor

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 WQ0013809-001 PERMIT
 Description: Failure to comply with the noncompliance notification reporting requirements.
 Classification: Moderate

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
 WQ0013809-001 PERMIT
 Description: Failure to properly conduct the total chlorine residual analysis.

7 Date: **01/31/2010** (931488) CN600694111
 Classification: Moderate

Self Report? YES For Informational Purposes Only
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

8 Date: **05/31/2010** (848118) CN600694111
 Classification: Moderate

Self Report? YES For Informational Purposes Only
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

9 Date: **11/30/2010** (898422) CN600694111
 Classification: Moderate

Self Report? YES For Informational Purposes Only
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

10 Date: **12/31/2010** (904262) CN600694111
 Classification: Moderate

Self Report? YES For Informational Purposes Only
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

11 Date: **01/31/2011** (911143) CN600694111
 Classification: Moderate

Self Report? YES For Informational Purposes Only
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

12 Date: **02/28/2011** (918427) CN600694111
 Classification: Moderate

Self Report? YES For Informational Purposes Only
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

13 Date: **05/31/2011** (947547) CN600694111
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

14* Date: **10/31/2011** (979575) CN600694111
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

15* Date: **03/31/2012** (1012203) CN600694111
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

16* Date: **04/30/2012** (1018597) CN600694111
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

* NOVs applicable for the Compliance History rating period 9/1/2007 to 8/31/2012

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FALL CREEK UTILITY COMPANY,
INC.
RN101609766**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-1028-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding FALL CREEK UTILITY COMPANY, INC. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located at 7001 Ranch House Road, approximately 7,000 feet west of the intersection of Farm-to-Market Road 1190 and County Road 303 in Hood County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on January 23, 2013, TCEQ staff documented that the Respondent was not including the location of the disposal site on waste manifests.
4. During an investigation conducted on January 23, 2013, TCEQ staff documented the following effluent results based on self-reported discharge monitoring reports ("DMRs"):

<i>EFFLUENT PARAMETER</i>				
Permit Limit				
	Chlorine Residual Minimum Concentration 1.0 Milligrams per Liter	Dissolved Oxygen Minimum Concentration 4.0 Milligrams per Liter	Total Suspended Solids Daily Average Concentration 20 Milligrams per Liter	Total Suspended Solids Daily Average Concentration Single Grab 65 Milligrams per Liter
<i>Month/Year</i>				
March 2012	c	2.9	c	c
April 2012	c	2.6	c	c
January 2013	**0.66	c	c	c

c = compliant

** Grab sample collected on January 23, 2013

5. During an investigation conducted on January 23, 2013, TCEQ staff documented that the staff gauge was corroded, not clearly legible, and installed in the wrong location.
6. During an investigation conducted on January 23, 2013, TCEQ staff documented that the Respondent did not update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports, in accordance with Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013809001, Sludge Provisions.
7. The Respondent received notice of the violations on May 13, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to maintain complete management records for all sludge removed from any wastewater treatment process, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(11)(B) and TPDES Permit No. WQ0013809001, Operational Requirements No. 11.f.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0013809001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6, and TCEQ Agreed Order Docket No. 2011-0525-MWD-E, Ordering Provision No. 2.b.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to properly maintain the staff gauge, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013809001, Operational Requirements No. 1.
5. As evidenced by Findings of Fact No. 6, the Respondent failed to comply with the previous Agreed Order, in violation of TEX. WATER CODE § 7.002 and TCEQ Agreed Order Docket No. 2011-0525-MWD-E, Ordering Provision No. 2.a.i.
6. Pursuant TO TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Thirteen Thousand Two Hundred Dollars (\$13,200) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Revenue Operations Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Nine Thousand Six Hundred Dollars (\$9,600) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid One Hundred Dollars (\$100) of the undeferred administrative penalty. The remaining amount of Three Thousand Five Hundred Dollars (\$3,500) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the

effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Thirteen Thousand Two Hundred Dollars (\$13,200) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: FALL CREEK UTILITY COMPANY, INC., Docket No. 2013-1028-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Agreed Order, properly install a new staff gauge.
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Submit certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.e below; and
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that all records of monitoring and operational activities, which include sludge management records and/or disposal records, are kept on site for a period of three years; and to ensure that self-reporting

requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports, in accordance with TPDES Permit No. WQ0013809001, Sludge Provisions.

- c. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. 2.b.ii, in accordance with Ordering Provision No. 2.e below.
- d. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013809001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations, in accordance with Ordering Provision No. 2.e below.
- e. The certifications of compliance required by Ordering Provisions Nos. 2.b.i, 2.c, and 2.d, shall be notarized by a State of Texas Notary Public and include the following certification language and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission,

including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

FALL CREEK UTILITY COMPANY, INC.
DOCKET NO. 2013-1028-MWD-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Roma Manue Jr
For the Executive Director

3/25/15

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of FALL CREEK UTILITY COMPANY, INC. I am authorized to agree to the attached Agreed Order on behalf of FALL CREEK UTILITY COMPANY, INC.. and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, FALL CREEK UTILITY COMPANY, INC. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]
Signature

2-11-15
Date

JOE CUNHA
Name (Printed or typed)
Authorized Representative of
FALL CREEK UTILITY COMPANY, INC.

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.